

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

LARRY JOE PERCIVAL,

Plaintiff,

v.

S. KERNAN, et al.,

Defendants.

No. 1:20-cv-00297-NONE-SKO (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS WITH RESPECT TO
PLAINTIFF'S FAILURE TO OBEY COURT
ORDERS AND FAILURE TO PROSECUTE;
AND DISMISSING ACTION

(Doc. No. 11)

Plaintiff Larry Joe Percival is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action under 42 U.S.C. § 1983. This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 6, 2020, the assigned magistrate judge issued a screening order, finding that plaintiff's complaint fails to state a claim on which relief can be granted. (Doc. No. 8.) The magistrate judge granted plaintiff leave to amend the complaint. (*Id.* at 1, 5-6.) Plaintiff failed to file an amended complaint or otherwise respond to the screening order. Therefore, on August 14, 2020, the magistrate judge issued an order requiring plaintiff to show cause in writing why this action should not be dismissed for failure to comply with a court order. (Doc. No. 9.) The magistrate judge cautioned plaintiff that “[f]ailure to comply with [the] order [would] result in a recommendation that this action be dismissed for failure to state a claim and to obey a court order.” (*Id.* at 2.) Nonetheless, plaintiff failed to respond to the order to show cause.

1 Accordingly, on September 25, 2020, the magistrate judge issued findings and
2 recommendations, recommending that this action be dismissed due to plaintiff's failure to state a
3 claim and to obey court orders. (Doc. No. 11.) The findings and recommendations were served
4 on plaintiff and provided him 14 days to file objections thereto. (*Id.* at 2.) Plaintiff has not filed
5 any objections and the time do so has passed.

In accordance with the provisions of 28 U.S.C. § 636(b)(1)(C), this court has conducted a *de novo* review of this case. Having carefully reviewed the entire file, the court finds the findings and recommendations to be supported by the record and proper analysis with regard to plaintiff's failure to obey court orders and failure to prosecute. The court declines to reach the other issues discussed in the findings and recommendations.

11 || Accordingly,

- 12 1. The findings and recommendations issued on September 25, 2020 (Doc. No. 11)
13 are adopted with regard to plaintiff's failure to obey court orders and failure to
14 prosecute;
15 2. This action is dismissed for plaintiff's failure to obey court orders and failure to
16 prosecute; and,
17 3. The Clerk of the Court is directed to assign a district judge to this action for
18 purposes of closure and to close this case.

19 || IT IS SO ORDERED.

Dated: **November 9, 2020**

Dale A. Troyd